

*** HON'BLE SRI JUSTICE G.SHYAM PRASAD**
AND
HON'BLE SRI JUSTICE M.VENKATA RAMANA

+ Crl.A. No. 113 of 2014

% Dated: 31.08.2019

Vemula Peda Sankara Rao

.. Appellant

And

The State of Andhra Pradesh
Rep. by its Public Prosecutor

.. Respondents

! Counsel for the Petitioner: Sri V.Raghu

^ Counsel for the Respondents: Learned Assistant Public Prosecutor

<Gist:

>Head Note:

? Citations: 2013 Crl.J Page 2040

HON'BLE SRI JUSTICE G.SHYAM PRASAD
AND
HON'BLE SRI JUSTICE M.VENKATA RAMANA
CRIMINAL APPEAL No.113 of 2014

JUDGMENT: *(Per Hon'ble Sri Justice G.Shyam Prasad)*

This appeal is directed against the judgment dated 07.08.2013 in S.C.No.234 of 2013 on the file of the Sessions Judge, Guntur, convicting him for the charge under Section 302 I.P.C. and sentencing him to suffer imprisonment for life and also to pay fine.

2. The case of the prosecution is that the deceased is the wife of the accused and they have three sons by names, Vemula Rambabu (LW.1), Vemula Thirupathi Rao(LW.3) and Vemula Sateesh Kumar (LW.4). The accused was eking out his livelihood by selling 'Masala' on a push cart. One year prior to the incident, the accused started to suspect the fidelity of the deceased and harassing her by picking up quarrels with her. About 45 days prior to 09.02.2013, after quarrelling with the deceased, the accused went to Hyderabad. He returned home about a week prior to the incident and staying in the house idle without attending to any work. He used to quarrel with the deceased frequently and was waiting for an opportunity to put an end to her life. On 09.02.2013 his three sons went out to attend coolie work as usual. At about 8 p.m while the deceased was watching a programme over T.V., taking advantage of her loneliness in the house, the accused attacked her with a chutney pounder,

causing bleeding injuries on her head, and came out, and bolted the door from outside and went away. Balisetty Seeta (LW.5), Vankayala Baby (LW.6) and Bandaru Anjaneyulu (LW.7), who are the neighbours of the house of the deceased noticed the accused hurriedly going away from the house by bolting door from outside. At that time Vemula Rambabu(LW.1), the son of the accused noticing the same entered into his house by removing the bolt and found the deceased with injuries on her head lying on the cot. He informed Vemula Bhargav(LW.2) and they have shifted the injured to GGH, Guntur, where she was declared dead. On the report of Vemula Rambabu(LW.1), the Police registered a case in Crime No.85 of 2013 for the offence punishable under Section 302 IPC on 10.02.2013, issued FIR/Ex.P10, submitted copies to all concerned. PW.11, the Inspector took up investigation and conducted the scene of offence panchanama in the presence of PW.8-Banka Jayarao and listed Witness No.12-Kallam Satyanarayanareddy, drafted observation report. He seized blood stained chutney pounder MO.1 near the cot of Varalaxmi, also seized dried blood at the scene with cotton swabs MOs.2 and 3, prepared rough sketch of scene of offence Ex.P11 and got the scene of offence photographed by PW.7-Bhimavarapu Vemareddy, and held inquest over the dead body of deceased in the presence of mediators and sent the dead body for autopsy. PW.9, Assistant Professor, Guntur Medical College, Guntur, conducted post-mortem on the dead body of deceased and opined that the cause of death was due to head injury. During the

course of investigation, PW.11 arrested the accused on 14.02.2013 in the presence of mediators. He voluntarily confessed about commission of murder of his wife suspecting her fidelity. In pursuance of his confession, PW.11 seized blood stained shirt MO.6, and sent the accused for judicial remand and forwarded the material objects to the Assistant Director, RFSL, Guntur for analysis. On completion of investigation, he has filed charge sheet against the accused for the offence punishable under Section 302 IPC before the court of IV Additional Judicial Magistrate of I Class, Guntur.

3. The IV Additional Judicial First Class Magistrate, Guntur took cognizance of the offence under Section 302 I.P.C, and committed the case to the Court of Sessions at Guntur and the Sessions Judge, registered as S.C.No.234 of 2013.

4. The prosecution examined PWs.1 to 11 and got marked Exs.P.1 to P.12 and MOs.1 to 11. The defence neither examined any witnesses nor marked any exhibits on his behalf.

5. On closure of prosecution evidence, the accused was examined under Section 313 Cr.P.C. by putting the incriminating material in the evidence of prosecution witnesses, for which he denied the same as false.

6. By judgment dated 07.08.2013, the trial Court found the appellant/accused guilty of charge under Section 302 I.P.C.

7. On consideration of the evidence on record, the trial Court held that the conduct of the accused in picking up quarrel with the deceased due to suspecting her fidelity is established. The accused was seen by PW.1 while coming out from the house after causing injuries on the body of the deceased by bolting the door from outside the house. PW.1 immediately entered into the house and found the house in a disturbed condition. FSL report reveals that the blood of human origin was detected on MO.6. Blood stained shirt, seized in pursuance of confession of the accused, under cover of Ex.P8 mediators report, which is pointing guilt of the accused. On these findings, the accused was guilty of offence under Section 302 I.P.C by the Sessions Court.

8. Heard Sri V.Raghu, learned counsel appointed as State Legal Aid, to defend the accused and the Assistant Public Prosecutor, appearing for the State/respondent.

9. Learned counsel for the appellant mainly submits that this case is based on the circumstantial evidence.

The main circumstance in this case is the evidence of the PW.1, son of the deceased, who saw the accused bolting the door and going away immediately after the incident of killing his mother. Immediately after his father left, PW.1 went inside the house and saw his mother in a pool of blood having many injuries on her.

It is argued that PW1 is an interested witness planted in this case. Though PW.1 saw his father at about 8.30 p.m he did not inform neighbours about the incident even after half an hour. If really PW.1 had seen his father going out of the house, he would have informed the neighbours and taken their help. The non-intimation to neighbours raises a serious doubt about his presence at the scene of offence and witnessing incident.

11. Learned counsel further submits that if really the deceased had received so many injuries, she would have raised hue and cry, and neighbours would have heard the cries. In this case, there is no instance of any neighbour hearing any sound or hue and cry from the house of the deceased, shows that the incident did not occur at the house of accused. The presence of P.W.1 at the scene of offence becomes doubtful.

12. On the other hand the learned Public Prosecutor submits that the presence of PW.1 cannot be doubted, as he is a natural witness. He was living with them in the same house. PW.1, being the son of the deceased has no necessity to depose false against his own father, unless enmity is established between them. The ordinary prudent man would think that no son deposes against his own father. His father going out by bolting the house, and he went inside the house and seeing his mother with injuries is the natural and probable conduct of P.W.1. The conduct of PW.1 of not informing the neighbours for half an hour cannot be found fault with as PW.1 on

seeing the mother in a state of shock might not been informed anybody.

13. Considering the submissions at the outset, this is a case of murder that took place inside the house of the accused. PW.1 is no other than the son of the deceased and accused, who was aged about 20 years. There was no necessity for him to implicate his own father in a crime of this nature. There is no material brought on record that there was any enmity between him and his father prevailing to the extent of implicating his own father in a crime of murder that too of his own mother. The contention of the learned counsel for the petitioner that PW.1 did not inform the neighbours immediately after he saw his mother with so many injuries, cannot be accepted for the reason that it is a ghastly murder. In fact, P.W.1 went inside and saw his mother and might have shocked of the incident and could not have informed immediately to the neighbours. PW.1 not informing the neighbours immediately is not a serious circumstance to disbelieve his presence at the scene of offence. Therefore, the said contention cannot be accepted.

14. The other contention of the learned counsel is that it was a ghastly incident taken place in the house of the accused and none of the neighbours have reported that they have heard any cries from the house of the accused. The scene of offence shows that the house of accused is surrounded by three or four houses. Admittedly, the incident occurred inside the house and therefore they would not

have heard any cries from the house. It is not even the case of the prosecution that there were any hue and cries when the incident had occurred. The medical evidence clearly reveals that the cause of death was due to head injury. Due to receipt of head injury, the deceased might have become unconscious and thereafter, she might have received other injuries. One of the strong circumstance in this case is PW.1 on seeing the accused bolting the door from outside and going out, and immediately he entering into the house. Therefore, there is proximity of time of incident and he going inside the house and finding his mother in that condition. Except the accused, there was nobody in the house at that time, and after the accused came out immediately, PW.1 went inside the house and saw his mother with injuries.

In this regard, the learned trial Judge had considered the circumstantial evidence and basing on the circumstantial evidence, convicted the accused. The four circumstances raised by the learned Judge clearly prove the guilt of the accused beyond reasonable doubt. The series of events establish the nexus between accused and the deceased.

15. The motive for commission of the offence is proved by the evidence of P.Ws.1 to 3 that accused used to suspect the fidelity of the deceased and there were frequent quarrels between them, one and half year prior to the incident, even one year prior to the incident and also just prior to the incident on the fateful day.

16. The recovery of material objects were made at the instance of the accused. In fact, the shirt seized at the instance of the accused contains blood stains. The material objects seized from the deceased body are M.O.7 blood stained jacket, M.O.8 the Blood stained saree and M.O.9 the petty coat of the deceased. Therefore, these facts are relevant to prove the case beyond reasonable doubt. In fact, the motive of accused suspecting the fidelity of the deceased, which lead to the committing of the offence is proved. The accused absconded after the incident. Though the accused had taken a plea that he was not available in the town on the date of incident, there is no material brought on record to prove his defence of *elibi*. Even under Section 106 of the Evidence Act, the burden is on the accused to explain the circumstances under which the deceased received injuries when they were together in the house. The reason for leaving his wife with injuries inside the house, and bolting the doors and leaving the place being witnessed by PW.1 is a strong circumstance. The conduct of the accused speaks volumes, particularly, when he had taken a plea of *elibi*.

17. In the light of the settled legal position with regard to the circumstantial evidence in **Prakash v. State of Rajasthan**¹ and in view of the forgoing reasons, we are of the considered view that the prosecution proved the guilt of the accused beyond reasonable doubt and therefore, we do not see any illegality or perversity in the judgment of the trial Court.

¹ 2013 CrI.J. Page 2040

18. In the result, the criminal appeal is dismissed confirming the judgment, dated 07.08.2013 in S.C.No.234 of 2013 passed by the Sessions Judge, Guntur.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE G.SHYAM PRASAD

JUSTICE M.VENKATA RAMANA

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ORDER:
(Per Hon'ble Sri Justice G.Shyam Prasad)

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